

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KAREN NOVICK,

Plaintiff,

-against-

METROPOLITAN LIFE INSURANCE COMPANY
and METLIFE OPTIONS AND CHOICES PLAN
NO. 512,

Defendants.
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Civ. Act. No. 09-civ-6865 (RJH)

**DECLARATION OF
MICHAEL H. BERNSTEIN**

DOCUMENT
ELECTRONICALLY FILED

MICHAEL H. BERNSTEIN, being duly sworn, deposes and states:

1. I am a member of the firm of Sedgwick LLP, attorneys for the Defendants, Metropolitan Life Insurance Company (“MetLife”) and MetLife Options and Choices Plan No. 512 (the “Plan”) (collectively the “Defendants”). As such, I am fully familiar with the facts and circumstances in this matter.

2. I submit this Declaration and the exhibits annexed hereto in support of Defendants’ motion for an Order pursuant to Rule 56, FED. R. CIV. PROC., granting summary judgment dismissing plaintiff’s Complaint, which seeks relief under the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. §1001, *et seq.*, with prejudice on the grounds that the Defendants’ decision to terminate her claim for short-term disability benefits under the governing ERISA Plan was not arbitrary and capricious and that she is not entitled to an award of long-term disability benefits under the Plan as a matter of law, and for such other and further relief this Court deems just and proper.

3. Annexed hereto as **Exhibit “D”** is a true and correct copy of the Plaintiff’s Complaint, which was filed with this Court on or about August 3, 2009.

4. Defendants timely appeared in this action by filing their Answer to Plaintiff's Complaint on March 15, 2011. A true and correct copy of Defendants' Answer is annexed hereto as **Exhibit "E"**.

5. On November 29, 2011, Hon. Andrew Jay Peck, U.S.M.J., Ordered Defendants to file their motion for summary judgment by December 23, 2011. (*See* Doc. No. 44). As such, Defendants' motion for summary judgment is timely.

Dated: December 23, 2011

I declare under penalty of perjury that the foregoing is true and correct.

s/
MICHAEL H. BERNSTEIN

CERTIFICATE OF SERVICE

I, BETSY D. BAYDALA, hereby certify and affirm that a true and correct copy of the attached **DECLARATION OF MICHAEL H. BERNSTEIN** was served **via ECF and regular mail** on this 23rd day of December, 2011, upon the following:

Alan H. Casper Esq. 1845 Walnut Street, Suite 1500 Philadelphia, PA 19107 Business Phone: (215) 546-1124 Business E-mail: acasper@alanhcasperesq.com	Scott M. Riemer Esq. Riemer & Associates 60 East 42nd Street, Suite 1750 New York, NY 10165 Business Phone: (212) 297-0700 Business E-mail: sriemer@riemerlawfirm.com
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Dated: New York, New York
December 23, 2011

s/
BETSY D. BAYDALA (BB 5165)